**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**CRIMINAL REVISION APPLICATION No. 114 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE BANKIM.N.MEHTA**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**RAVAL NARESHBHAI MELABHAI - Applicant(s)**
**Versus**
**THE STATE OF GUJARAT & 5 - Respondent(s)**

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**Appearance :**

MS BANNA S DUTTA for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.
SHRIKAR H BHATT for Respondent(s) : 4 - 6.

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**CORAM : HONOURABLE MR.JUSTICE BANKIM.N.MEHTA**

**Date : 27/09/2007**

**ORAL JUDGMENT**

1. The petitioner has filed this Criminal Revision application under Section 397 read with

Section 401 of the Code of Criminal Procedure, 1973 and challenged the order passed below application Exh. 52 on 1-9-2006 by learned Addl. Sessions Judge, Fast Track Court No. 2, Patan in Sessions Case No. 272 of 2002 rejecting the application to alter charge and add Sections 120-B and 34 of the I.P. Code in the charge framed against the respondent.

2. According to the petitioner – original complainant, respondents allegedly assaulted him on 27-12-1995. Therefore, complaint was filed and investigation was started. On completion of investigation charge sheet was laid. The case was committed to Sessions Court at Patan and it was registered as Sessions Case NO. 272 of 2002 for the offences punishable u/s 143, 147, 148, 307, 324 read with Section 114 of the I.P. Code and u/s 135 of the Bombay Police Act.

3. After framing of the charge against the respondents – accused for aforesaid offences, petitioner filed application to add Sections 120-B and 34 of the I.P. Code in charge framed against respondents accused. The application was rejected by the trial court and therefore petitioner filed Criminal Revision Application No. 762 of 2006. However said Criminal Revision

Application was withdrawn as per order dated 5-2-2007 without prejudice to the petitioner's right to file appropriate application in accordance with law. Pursuant to that order present Criminal Revision Application is filed,

4. I have heard learned advocate Ms. Banna Dutta for the petitioner and learned A.P.P. Ms. Meeta Panchal for respondent – State at length and in great detail.

5. It appears from the impugned order that the learned trial Judge framed charge after perusing the papers produced before him. It appears that there is no evidence to indicate that the respondents – accused allegedly committed the criminal act in furtherance of the common intention and that there was criminal conspiracy to commit offence. Therefore, there is no evidence to indicate that the respondents committed offence punishable u/ss 120-B and 34 of the I. P. Code.

6. Learned advocate for the petitioner failed to point out from the impugned order that there is sufficient evidence to implicate the respondents for offence punishable u/s 120-B

and 34 of the I.. P. Code. Therefore, petitioner has failed to indicate that the trial court committed jurisdictional error in passing the impugned order. Therefore, this Criminal Revision Application deserves to be dismissed.

7. In view of above, this Criminal Revision Application fails and stands dismissed. Rule stands discharged.

(Bankim N. Mehta,J.)

/JVSatwara/